

W. R. ZANES & COMPANY OF LOUISIANA, INC.

MARCH 20, 1956.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5382]

The Committee on the Judiciary, to whom was referred the bill (H. R. 5382) for the relief of W. R. Zanes & Company of Louisiana, Inc., having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendment is as follows:

Line 5, page 1, after the word "amount" insert "of \$146,907.45".

PURPOSE

The purpose of the proposed legislation, as amended by the committee, is to relieve W. R. Zanes & Company of Louisiana, Inc., of liability to pay the United States the amount of \$146,907.45 erroneously levied on an importation of merchandise covered by New Orleans, La., consumption entry No. 3137, dated January 29, 1952.

STATEMENT

The merchandise which was described as "bamboo porch blinds" was erroneously entered and appraised in units of 1 instead of units of 100. The correspondence relating to this matter, which has been appended to this report, discloses in some detail how this error occurred. In brief, the merchandise was originally entered at New Orleans covering a shipment of bamboo blinds at a value based on a unit of 100 square feet. This unit of 100 square feet is the one in which this class of merchandise is normally bought and sold in the ordinary course of trade. The New Orleans appraiser made a request to the Customs Information Exchange, New York, for a value on the merchandise based on the unit of 100 square feet. The appraiser

at New York reported an increased value per 100 square feet to that originally entered. W. R. Zanes & Co. was advised of this increase, and amended their entry in accordance with that increased valuation. At this point the entry clerk left out the figure "100" in the unit of value shown on the worksheet submitted with the amended entry. As a result the merchandise was erroneously entered and appraised in units of 1 square foot instead of 100 square feet.

As observed by the Treasury Department in its report to this committee, the customs examiner has now stated that it was his intention to report the value per "100 square feet" rather than per "square foot." The Treasury Department further indicated that if the bill is amended to show the actual amount of increased duties not to be collected it will not object to its enactment in view of the fact that the assessment of increased duties on the merchandise was the result of an error in the entered value and in the appraisement.

The committee has carefully reviewed the facts set forth in the Treasury Department's report and in the correspondence of W. R. Zanes & Co. relating to the matter, and finds that this is an appropriate case for legislative relief. Accordingly, the committee recommends that the bill be amended as recommended by the Treasury Department to show the exact amount of increased duties not to be collected as \$146,907.45, and that the amended bill be considered favorably.

TREASURY DEPARTMENT,
Washington 25, February 28, 1956.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Reference is made to your letter of January 16, 1956, enclosing copies of a bill, H. R. 5382, for the relief of W. R. Zanes & Company of Louisiana, Inc., and requesting a report of the facts in the case together with an opinion as to the merits of the bill.

The proposed legislation, if enacted, would relieve W. R. Zanes & Co. from the liability for the payment of certain increased duties on an importation covered by New Orleans, La., consumption entry No. 3137, dated January 29, 1952. The merchandise was erroneously entered and appraised in units of 1 instead of in units of 100. The merchandise consisted of an importation of bamboo blinds. The merchandise was entered by the importers, apparently through inadvertence, at a unit value per "square foot" instead of at a unit value per "100 square feet." The importers claim that the latter value is the correct one and the customs examiner has now stated that it was his intention to report the value of the merchandise at a unit value per "100 square feet" rather than per "square foot." However, on the basis of the examiner's report, the merchandise was appraised at a value per square foot and the importer filed no timely appeal for reappraisement by the United States Customs Court. Accordingly, under section 501 of the Tariff Act of 1930 (19 U. S. C. 1501), the appraisement became final and conclusive on all parties.

Since the assessment of the increased duties on the merchandise in question is the result of an error in the entered value and in the

appraisement by the appraiser of merchandise, the Department does not oppose favorable action on H. R. 5382 provided the exact amount of the increased duties not to be collected from the importer is inserted therein. In this connection, the Department is advised by the collector of customs at New Orleans that the amount of increased duties which will be assessed on liquidation of consumption entry No. 3137 as the result of the error in the entered and appraised values of the merchandise will be \$146,907.45. The Department recommends that such amount be expressed in the bill as the amount which the bill would relieve the importer from paying.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

NEW ORLEANS, LA., *January 7, 1955.*

Re consumption entry 3137, January 29, 1952, reference 20957.

Hon. HALE BOGGS,
Member of Congress,
Washington, D. C.

DEAR CONGRESSMAN BOGGS: On your recent visit to New Orleans, Mr. Wallace Westfeldt discussed briefly with you his case and ours as well concerning certain entries of merchandise, which, if liquidated in accordance with the present intentions, expressed by the Bureau of Customs and the liquidating division of our local customs office, would result in a demand being made on us for increased duties of \$146,889.30. As a matter of fact a liquidation based on the full intent of both the examiner, the appraiser and ourselves would result in a refund of \$18.15, by which amount we have overpaid the government.

Briefly the facts are as follows:

1. An original entry was made at New Orleans by us for bamboo porch blinds at various unit prices per 100 square feet as shown on the consular invoice submitted with the entry.

2. The New Orleans appraiser made a request on the Customs Information Exchange, New York, for a value on this merchandise based on a unit of 100 square feet.

3. The appraiser at New York was in agreement as to the unit of quantity (100 square feet) but reported a slightly higher value.

4. We were notified by the appraiser of the increase in value and amended our entry accordingly; however, the entry clerk left out the "100" in the unit of value as shown on the worksheet submitted with the amended entry, nevertheless all computations and extensions on all documents in both the original and the amended entry were based upon a unit of 100 square feet.

5. The examiner and the appraiser checked this item on the worksheet, thus apparently appraising the entry as entered, per square foot. They both state that it was their firm intention to appraise on the basis of a unit of 100 square feet.

6. The Collector of Customs, New Orleans advises that, should liquidation take place under the present set of circumstances, he has no option excepting to liquidate this entry on a unit basis of United

States dollars per square foot and would call on us to pay increased duty of 100 times the actual amount of duty due upon the shipment of a total of \$146,889.30.

7. It is the contention of the Bureau of Customs that the appraiser appraised this merchandise in a unit of quantity of 1 square foot due to the fact that the worksheet has the notation "per sq. ft." and they contend this means "square foot" and insert "1" therein. "Sq. ft." is also the abbreviation for "square feet" and all the calculations and extensions will bear out our contention that the entry was made on a basis of a unit of quantity of 100 square feet.

The record will speak for itself without any additions or subtractions therefrom by us.

Your assistance in this matter will be greatly appreciated and we trust you will be successful in preventing a grave injustice from being committed on our firm.

Respectfully submitted by:

W. R. ZANES & COMPANY OF LOUISIANA, INC.,
J. F. GUENTHER, *Vice President.*

W. R. ZANES & COMPANY, OF LOUISIANA, INC.,
New Orleans 16, La., June 7, 1954.

BUREAU OF CUSTOMS,
Washington 25, D. C.

(Through Collector of Customs, New Orleans, La.)

Petition for Relief on Consumption Entry No. 3137,
dated January 26, 1952

A consumption entry was filed in the customhouse at New Orleans, La., on January 26, 1952, covering a shipment of bamboo blinds from Japan. The collector at New Orleans has indicated that he contemplates liquidating said entry on a value "per square foot" instead of "per 100 square feet," which would result in increased duty being assessed against said entry in the amount of approximately \$146,000.

We had requested that liquidation of this entry be suspended pending our opportunity to file this petition wherein we are seeking your authority to the collector of customs that he should liquidate on basis of 100 square feet rather than 1 square foot.

A review of all available documents clearly indicates that the importer intended and did enter said merchandise at a value based on a unit of 100 square feet, the unit in which this class of merchandise is normally bought and sold in the ordinary course of trade.

The importer requested value "per 100 square feet" from the appraiser and the value was returned by the Customs Information Exchange expressed in units of "100 square feet," whereupon the broker amended the original entry to coincide with said values.

Section 500, Tariff Act of 1930, as amended, provides that the appraiser shall appraise merchandise in the unit in which it is normally bought and sold in the ordinary course of trade.

The appraiser has indicated his advisory classification on the invoices in red ink as paragraph 411, 50 percent, thus recognizing

the unit as being 100 square feet as indicated by the computations and extensions shown on the invoices and entry papers, thus indicating that he was cognizant of the fact that the merchandise was invoiced and entered as a unit of 100 square feet.

On the worksheets, the importer by his computation and extensions clearly indicated that the unit was 100 square feet and no other. Space on the worksheet being limited the importer used the abbreviation for square feet, as "sq. ft." and the examiner and the appraiser so construed same. A recent discussion with both the examiner and the appraiser confirms this statement; also that it was the appraiser's firm intention to appraise on a value per 100 square feet, and that he did so appraise.

There can be no legal appraisement in any unit of quantity other than 100 square feet as it is not bought or sold in any other quantity. We are asking the collector of customs to incorporate in his report a statement from the appraiser that the unit of quantity as provided in section 500 (A-1) Tariff Act, 1930, as amended, is "per 100 square feet." If the collector decides there has been an appraisement and that such appraisement is "per 10 square feet" and the appraiser makes a statement that the unit of quantity is "per 100 square feet" then there has been no appraisement and the collector should ask the appraiser to proceed with appraisement, which undoubtedly would be on 100 square feet basis. With this situation, viz, where appraised value is less than entered value you would be able to authorize the collector to treat the entered value as per 100 square feet, thereby making both the entered and appraised value the same, viz, "per 100 square feet."

The construction of the collector is that the merchandise was appraised per square foot, with nothing to substantiate such construction.

Mr. Baxter, president of W. R. Zanes & Company of Louisiana, Inc., personally appeared before the assistant collector and discussed the matter in order to show the assistant collector that he had every reason to liquidate this entry on its true basis, this discussion taking place shortly after Mr. Baxter was informed of the contemplated liquidation.

It would be erroneous to liquidate this entry as contemplated and a grave injustice committed.

A review by the Bureau of the entry and all related documents will clearly indicate that the importer intended to and did enter this merchandise at a value based on a unit of measure of 100 square feet, and that the abbreviation of square feet is being misconstrued.

It is therefore respectfully requested that this petition be granted and that the Bureau of Customs direct the collector of customs at the port of New Orleans, La., to liquidate said entry on a basis of the correct unit of measure of 100 square feet, as reflected throughout all documents filed in the original entry as well as the amended entry.

In closing, we are of the opinion that you have a choice of two decisions, either of which would give us the relief everyone will admit could be easily corrected under the present law (Simplification Act) if the situation should present itself today, viz:

1. To direct the collector to liquidate on 100-square-feet basis as this is the way the merchandise was both entered and appraised.

2. To direct the appraiser to proceed with appraisement as none has been made to date.

In the event this petition is refused would the Bureau entertain a plea for relief subsequent to liquidation with a favorable ruling?

Respectfully,

WILLIAM H. GRISWOLD,
Customs Consultant.

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
Washington 25, November 17, 1954.

Hon. T. R. LYONS,
Collector of Customs,
New Orleans 16, La.

DEAR MR. LYONS: Reference is made to your letter of August 23, 1954 (204), transmitting a request from W. R. Zanes & Co. that the Bureau authorize the liquidation of your consumption entry No. 3137 of January 29, 1952, on the basis of an appraisement otherwise than manifested by the appraiser in the appraisement papers.

The merchandise was originally entered at a value per 100 square feet. In amending the entry, the importer erroneously indicated his value "per square foot" rather than per "100 square feet." Perpetuating the importer's error, the appraiser thereafter appraised the merchandise as entered on June 25, 1952. No timely appeal for reappraisement was filed pursuant to section 501 of the tariff act, as amended.

Since the appraisement became final and conclusive on all parties prior to the effective date of the Customs Simplification Act of 1953, the Bureau has no authority to correct the clerical error in the appraisement under section 520 (c) (1) of the tariff act, as amended by the Customs Simplification Act.

The importer states that since the error involved could be corrected under section 520 (c) (1) of the tariff act, if it presented itself today, the Bureau should either consider the merchandise as appraised at 100 square feet or to disregard the appraisement on the basis of a value per square foot and authorize a second appraisement.

Even though the appraiser intended his appraisement to be otherwise than as manifested, the official appraisement record indicated that the merchandise was actually appraised at a value per square foot, and under the circumstances involved, the Bureau has no authority to change or notify such appraisement, or to order a second appraisement. In accordance with section 503 of the tariff act, the liquidation of the entry must be made on the basis of such appraisement which has become final on all parties under section 501 of the tariff act.

In view of the foregoing, the request is denied.

Your enclosure is returned.

Very truly yours,

W. E. HIGMAN,
Chief, Division of Classification, Entry, and Value.

W. R. ZANES & COMPANY, OF LOUISIANA, INC.,
New Orleans 16, La., January 7, 1955.

COMMISSIONER OF CUSTOMS,
Washington 25, D. C.

Sir: We respectfully submit the following for your further consideration in connection with the contemplated liquidation of consumption entry No. 3137 of January 29, 1952, at the port of New Orleans, La.

The entry in question covered two invoices of bamboo porch blinds, invoice No. 5399 for 78 bales and invoice No. 5400 for 237 bales. The blinds were originally entered at various unit prices per 100 square feet as follows:

Entered values
[United States dollars]

	Cost	Rate	Duty
		<i>Per cent</i>	
Invoice No. 5399, 70 bales 21,564 square feet.....	\$535	50	\$267.50
Invoice No. 5400, 237 bales, 73,666 square feet.....	1,627	50	813.50
Total.....	2,162		1,081.00

After importation and pursuant to advice received from the office of the appraiser, an amended entry was filed in which the importer added, the make export value, the sum of \$16.44 on invoice No. 5399 and the sum of \$47.82 on invoice No. 5400, making an increase in duty of \$32 due upon the original entry (\$47.82 plus \$16.44 equals \$64.26 at 50 percent equals \$32).

All of the computations and extensions were based upon a unit price of "United States dollars per 100 square feet" rather than "per 1 square foot" and the following documents, which are a part of the official entry files, clearly show this to be true:

1. The consular invoice.
2. The original entry and summary on customs form 7501.
3. The Customs Information Exchange return.
4. Values furnished the importer by examiner, as requested by importer prior to entry.
5. Amended entry and summary.
6. Worksheet on amended entry, as extended.

A review of all the documents clearly indicates that the importer intended and did enter the said merchandise based on a unit value of 100 square feet and that he further requested the examiner or the appraiser, prior to entry, to furnish values based upon a unit of quantity of 100 square feet. The appraiser reported the transaction on customs form 6413 to the United States appraiser of merchandise, New York, N. Y., and the unit of quantity reported on said form was "per 100 square feet." The New York examiner, acting for the appraiser, agreed with the unit of quantity expressed (100 square feet), but reported a difference in value. This information was given to W. R. Zanes & Co. on worksheets prepared by Mr. M. T. Blouin, the examiner at the New Orleans Customhouse, who handled this particular shipment. Attached to the official file are photostatic copies of these two worksheets which Mr. Blouin states are in his handwriting. (The appraiser at New Orleans will verify this state-

ment.) It will be noted that on these worksheets in regard to invoice No. 5399 under the heading of "Entered Value or Unit of Quantity (State Currency)" is a notation "per square feet." On the other worksheet, in regard to invoice No. 5400, under the same heading, there is no notation as to regard per square feet or per 100 square feet; however, on both, the computation and extension is calculated on the basis of 100 square feet.

These two worksheets were used by the entry clerk, who prepared the entry for the importer, and he merely copies the figures on this worksheet supporting his amended entry; thus, the worksheets supporting the amended entry showed the heading as follows "United States Dollars per Square Foot Less Ocean Freight" Mr. Blouin advised that it was definitely his intention to inform the importer that the proposed value applied to the blinds in units of 100 square feet. Merchandise was appraised as entered on June 25, 1952, and the entry papers were lodged with the collector on that date. The collector has advised us that it is his intention to liquidate the entry per 1 square foot, or at an increase of 100 times the actual duties due on the merchandise, although all parties, including the collector, know that it was the intention of the importer to enter on a value based upon a unit of value of 100 square feet and that the examiner intended to report on a value per 100 square feet and that the appraiser intended to appraise at a value based on 100 square feet. We quote the last paragraph of the memo from appraiser which is in the official files of this entry:

"From a consideration of the foregoing, it is obvious that the correct unit of quantity for appraisement of the blinds was per 100 square feet, and it was the firm intention of the examiner to make his returns on the invoice and summary sheet accordingly. However, when he checked and initialed the worksheet attached to the amended entry, he failed to notice that "100" had been omitted from the unit of quantity expressed thereon by the broker. This omission was also overlooked by the appraiser at the time of signing the summary sheet. It was also his intention to return the merchandise in units of 100 square feet."

The Collector, if he liquidated on the basis of "1 sq. ft.", is interpreting "sq. ft." to mean "square foot." "Sq. ft." also means "square feet," and since all of the documents and papers in the file clearly show that all computations were based upon the interpretation of "100 sq. ft.", we contend that he would be in error to so liquidate.

If the entry is liquidated, as contemplated by the collector, on the basis of "per 1 sq. ft.," we will be called upon to pay an increased duty of \$146,889.30; whereas, if this entry is liquidated on the basis "100 sq. ft.," as is proper, we would have a refund due us of \$18.15 (the computation showing how these figures are arrived at are a part of the official file and may be verified at the collector's office in New Orleans).

We are not a large company, and if called upon to pay these additional duties which are not rightfully due the Government, we will have no alternative other than to declare bankruptcy. A grave injustice would be done to us, and we do not believe that it is the intention of our Government to penalize the honest business concern in this manner. We have not in any way tried to defraud the revenues or to violate any of the laws of the Government, nor have we in any way been willfully negligent. A clerical error was committed here

by the examiner when he furnished us the information regarding values we requested. He intended to furnish the values at the unit quantity of 100 square feet but failed to so place the "100" on his worksheets. Our entry clerk failed to note this error and copies the examiner's figures in the preparation of the amended entry. This is truly a manifest clerical error clearly evident from the papers and records of the entire file, and, as such should be corrected by the Bureau of Customs. We are of the opinion that the Bureau of Customs has clear authority under the Tariff Act of 1930 to direct the collector to correct this clerical error and liquidate the entry on the basis of 100 square feet.

Section 502 (c) (1), Tariff Act, 1930, as amended: "A clerical error in any entry or liquidation discovered within 1 year after date of entry, or within 60 days after liquidation when liquidation is made more than 10 months after the date of entry."

Had the "100" been inserted, as it was clearly the intention of all parties to do, this entry would have long since been liquidated at the true and correct value, and the file closed. To hide behind the technicality of "100" and demand additional duties, which are not rightfully or justly due our Government, and force a small business into bankruptcy is, we feel, not the proper and legal way that our Government intended the Bureau of Customs to act.

If this entry is liquidated, as contemplated by the collector, there is no legal remedy for us that we know of, since, under customs laws, we can only file a protest against the collector's actions. To file a protest, we must pay this additional duty of \$146,889.30 which we do not have and have no way of securing. Also, all cases in point clearly hold that the United States Customs Court is without authority to order a reliquidation on a protest case where there has been no appeal to reappraisement—thus we are without any legal remedy if the Commissioner refuses to order the collector to reliquidate this entry.

We respectfully and humbly seek your assistance in this matter in any way possible and by so doing prevent us from being forced into bankruptcy.

W. R. ZANES & COMPANY OF LOUISIANA, INC.;

By _____

○

The first of these is the fact that the medical profession is a highly organized and self-regulating body. The American Medical Association, for example, is a powerful organization that represents the interests of its members and the public. It has a long history of advocating for the medical profession and the public good.

The second factor is the fact that the medical profession is a highly specialized and technical one. The training and education of medical professionals is rigorous and lengthy, and the work they do is often complex and demanding. This has led to a high level of respect and authority for the medical profession.

The third factor is the fact that the medical profession is a highly ethical one. Medical professionals are bound by a code of ethics that emphasizes the importance of patient care and the avoidance of harm. This has led to a high level of trust and confidence in the medical profession.

The fourth factor is the fact that the medical profession is a highly influential one. Medical professionals are often in a position to influence public policy and the health of the community. This has led to a high level of respect and authority for the medical profession.

The fifth factor is the fact that the medical profession is a highly organized and self-regulating body. The American Medical Association, for example, is a powerful organization that represents the interests of its members and the public. It has a long history of advocating for the medical profession and the public good.

The sixth factor is the fact that the medical profession is a highly specialized and technical one. The training and education of medical professionals is rigorous and lengthy, and the work they do is often complex and demanding. This has led to a high level of respect and authority for the medical profession.

The seventh factor is the fact that the medical profession is a highly ethical one. Medical professionals are bound by a code of ethics that emphasizes the importance of patient care and the avoidance of harm. This has led to a high level of trust and confidence in the medical profession.

The eighth factor is the fact that the medical profession is a highly influential one. Medical professionals are often in a position to influence public policy and the health of the community. This has led to a high level of respect and authority for the medical profession.

The ninth factor is the fact that the medical profession is a highly organized and self-regulating body. The American Medical Association, for example, is a powerful organization that represents the interests of its members and the public. It has a long history of advocating for the medical profession and the public good.

The tenth factor is the fact that the medical profession is a highly specialized and technical one. The training and education of medical professionals is rigorous and lengthy, and the work they do is often complex and demanding. This has led to a high level of respect and authority for the medical profession.

The eleventh factor is the fact that the medical profession is a highly ethical one. Medical professionals are bound by a code of ethics that emphasizes the importance of patient care and the avoidance of harm. This has led to a high level of trust and confidence in the medical profession.

The twelfth factor is the fact that the medical profession is a highly influential one. Medical professionals are often in a position to influence public policy and the health of the community. This has led to a high level of respect and authority for the medical profession.